IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Mohit Kumar & ors. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No.1662/2006

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Date of Order: December 20, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. P.N. Mohanani, for the petitioners.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.
Mr. Rakesh Arora, for the non-petitioner No.2, first informant.

BY THE COURT:

Notice for final disposal is accepted by Mr. Ashok Upadhyaya, Public Prosecutor, and Mr. Rakesh Arora, for the non-petitioner No. 2. With the consent of the learned counsel for the parties, the petition is being heard and decided at the admission stage.

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short,"the Code" hereinafter), the petitioners seek quashing of FIR No.200/2006, Police Station, Mahila Thana, Jodhpur City for the offences under Sections 498-A, 406 and 323 IPC.

I have heard learned counsel for the parties. Carefully gone through the FIR.

It is contended by the learned counsel for the petitioners that no cause of action arose at Jodhpur and, therefore the Police Station, Mahila Thana, Jodhpur City has no jurisdiction to inquire into the matter, as also the Court at Jodhpur has no jurisdiction to try the case.

Learned Public Prosecutor and the counsel for the non-petitioner No.2, the first informant, submit that the marriage of non-petitioner No.2 Smt. Sonu alias Yogeshwari was solemnized with petitioner No.1 Mohit Kumar at Jodhpur on 6-5-2006 and at the time of marriage, the parents of non-petitioner No.2 gave enough dowry articles to the non-petitioner No.2, which she entrusted to the present petitioners and the present petitioners failed to return the "Istridhan". Though an amount of Rs. 1,11,000/-, four rings, one gold-chain, one pair of ear-rings and Necklace have been returned by the petitioners to the non-petitioner No.2 but at the time of receiving these articles in the presence of the Station House Office, Police Station, Mahila Thana, Jodhpur City, the non-petitioner No.2 has given the detailed of the items which still remain with the petitioners and the petitioners failed to return the same and as such misappropriated the same and, therefore, according to the learned Public Prosecutor and the counsel for the non-petitioner

No.2, the police at Jodhpur has jurisdiction to inquire into the matter and the Court at Jodhpur has jurisdiction to try the case in view of the provisions of sub-section (4) of Section 181 of the Code.

Learned counsel for the petitioners has relied on a decision of this Court in Kumari Suman & ors. Vs. State of Rajasthan, & Anr., 2006 Cri.L.J. 4187, wherein the offence involved was under Section 498-A, IPC and the victim of the offence was subjected to harassment and cruelty at Paniwala, tehsil and district Abohar (Punjab) and, therefore, this Court held that the Court at Hanumangarh (Rajasthan) has no jurisdiction to try the case. The decision relied on by the learned counsel for the petitioners turn on its own fact and is of no help to the petitioners for the reason that in that case, there was no offence under Section 406 IPC, but the offence was only under Section 498-A, IPC; whereas in the instant case, apart from the offences under Sections 498-A and 323 IPC, the offence under Section 406 IPC is also alleged against the petitioners.

On a bare perusal of the FIR, in my view, apart from the offences under Section 498-A and 323 IPC, the ingredients of commission of offence under Section 406 IPC are also prima facie made out against the petitioners.

Sub-section (4) of Section 181 of the Code provides that any offence of criminal misappropriate or of criminal breach

of trust may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or any part of the property which is the subject of the offence was received or retained, or was required to be returned or accounted for, by the accused person.

In the instant case, the dowry articles were received by the petitioners at Jodhpur, which have been retained by them and they failed to return the same. In the circumstances, therefore, the Police Station, Mahila Thana, Jodhpur City is having jurisdiction to inquire into the matter, as also the Court at Jodhpur has jurisdiction to try the case. It is settled law that where the offence consists of several acts done in different local area, it may be inquired into or tried by a Court having jurisdiction over any of such local area, as envisaged under Section 178 of the Code. In the instant case, so far as the offence under Section 406 IPC is concerned, it arose at Jodhpur and, therefore, no case for quashing the FIR is made out.

The criminal miscellaneous petition is, therefore, dismissed.

(H.R. PANWAR), J.

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